

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0524P

Gross Income Tax

Fiscal Years Ending 08/31/93, 01/02/94, 01/01/95, and Calendar Year 12/31/95

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated under the laws of Virginia on January 1, 1988 was audited for fiscal years ending 08/31/93, 01/02/94, 01/01/95, and calendar year 1995. Upon audit it was discovered that the taxpayer failed to report intra-state sales subject to gross income tax which was reported prior to calendar year 1995. Taxpayer contracted out the state return preparation in 1995.

Taxpayer requests that the department waive the negligence penalty.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for 1995 because it failed to report taxable gross income.

Taxpayer, in a letter dated August 17, 1998 protested penalties assessed and states it has always attempted to file a complete and accurate Indiana Corporate Income Tax return. Further, the understated tax liability was due to failure to complete the taxable gross income section, which they had always correctly completed. Due to a staff shortage, they were forced to rely on an outside agency to prepare the 1995 return. They omitted the gross income tax section of the return. Due to the above

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PAGE #2

circumstances, taxpayer requests that the penalty be waived and refunded.

The audit covering four years indicates that three of the tax returns had income tax due while 1995 was at zero. Taxpayer apparently did not review the return after it was completed by an outside source to assure it was accurate.

FINDING

Taxpayer's protest is denied.